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FILE

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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SEP - 2 1992

Federal Communications Commission
Office of the Secretary

In the Matter of

Policies and Rules Pertaining
to the Equal Access Obligations
of Cellular Carriers

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RM-8012

To: The Commission

COMMENTS

Pioneer Telephone Cooperative Inc., ("PTC") and its wholly-owned cellular subsidiaries, Pioneer Telecommunications, Inc. ("Pi-Com") and O.T.&T. Communications, Inc. ("O.T.&T."), by its attorneys and pursuant to Section 1.405(a) of the Federal Communications Commission's ("FCC" or "Commission") rules, and the Commission's Notice requesting comments, hereby submits its comments in the above-captioned matter.^{1/} PTC opposes MCI's proposal to impose equal access requirements on the cellular industry because neither the cellular industry nor its customers would benefit from such additional regulation. Accordingly, PTC recommends that the FCC not initiate a rulemaking on this issue.

^{1/} These Comments are timely filed. See Public Notice, RM-8012, DA 92-745, rel. June 10, 1992; Order extending filing deadline, RM-8012, DA 92-1016, rel. July 28, 1992.

Q+Y

I. BACKGROUND

1. These comments respond to a petition for rulemaking filed by MCI to impose equal access requirements on all cellular licensees. Currently, only the Bell Operating Companies' ("BOC") cellular operations are subject to equal access requirements, pursuant to the terms of the AT&T divestiture Decree as modified.^{2/} MCI rests its argument for imposing equal access requirements on the fact that the cellular industry resembles the local exchange carrier ("LEC") industry, which is subject to equal access requirements, and argues that equal access should be imposed on all cellular licensees as well. PTC disagrees with the premise of MCI's position and its conclusion. Furthermore, as PTC demonstrates herein, the cost of imposing equal access requirements on all cellular licensees outweighs the purported benefits.

II. EQUAL ACCESS REQUIREMENTS SHOULD NOT BE IMPOSED ON CELLULAR LICENSEES

2. MCI implies that the cellular industry is now mature enough to withstand equal access regulation, and therefore it should be imposed at this time. This argument is flawed in that it fails to view the cellular industry in the larger context of the mobile services industry, which includes services with which

^{2/} Unites States v. American Tel. and Tel. Co., 552 F. Supp. 131 (D.D.C. 1982), affd mem. sub nom. Maryland v. United States, 460 U.S. 1001 (1983)

cellular competes which are not subject to equal access regulation. Furthermore, MCI fails to demonstrate that the public desires or would benefit from such regulation.

A. Equal Access Requirements Could Undermine the Cellular Industry's Competitiveness

3. Cellular services are largely unregulated. The FCC's intent in so structuring cellular services was to foster a competitive environment. See In the Matter of An Inquiry Into the Use of the Bands 825-845 MHz and 870-890 MHz for Cellular Communications Systems, CC Docket No. 79-318, 86 F.C.C. 2d 469 (1981). Burdening cellular operations with equal access regulation would be anathema to this competitive environment. While the cellular industry has matured, so has the mobile service industry at large. Cellular competes with Specialized Mobile Services (SMR), paging, and most recently, personal communications services (PCS) in its experimental stages. Comparison with these other segments of the mobile services markets is a more appropriate comparison than with the local exchange carrier (LEC) industry.^{3/}

4. No equal access obligations are imposed upon these competitive mobile services. To the contrary, the FCC seeks to

^{3/} The basis for imposing equal access on BOCs, and then on all LECs was to guard against anticompetitive behavior by local bottleneck facilities. Such is not the case with cellular facilities.

ease regulatory burdens on these services. See, e.g., Amendment of Part 90 of the Commission's Rules to Eliminate Separate Licensing of End Users of Specialized Mobile Radio Systems, Report and Order, PR Doc. No. 92-79, FCC 92-359, rel. Aug. 31, 1992, "adopting rules ... that will substantially reduce the administrative burden on SMR end users, SMR base station licensees, and the Commission." Id. at para. 26. The regulatory scheme for a PCS industry is in the evolutionary stage. Yet, the FCC "expect[s] PCS to be a highly competitive service ... [and] regardless of the regulatory classification, [the FCC] tentatively concludes[s] that PCS should be subject to minimal regulation." See, Amendment of the Commission's Rules to Establish New Personal Communications Services, Notice of Proposed Rulemaking and Tentative Decision, Gen. Docket No. 90-315, ET Docket No. 92-100, FCC 92-333, para. 94, rel. Aug. 14, 1992.

5. It is clear that the FCC is committed to a less burdensome regulatory frame-work for mobile services, the result of which should be a more competitive mobile services marketplace. MCI's request for greater regulation of cellular is therefore at odds with the FCC's regulatory policies. The FCC should not hamstring cellular operations via regulatory measures such as equal access requirements, at a time when other mobile services are being relieved of regulatory burdens.

B. The Burdens of Equal Access Regulation Outweigh the Supposed Benefits

6. The increased regulation of cellular operations suggested by MCI would not benefit the public because it would add costs to existing cellular operations, which would necessarily be passed along to consumers, with little or no apparent benefit to them.

7. As the attached Declaration of Richard R. Ruhl and accompanying data demonstrate, the costs of imposing equal access regulation on cellular licensees are not insignificant. They indicate that the estimated cost of imposing equal access, both the cost of added facilities and the cost of equal access balloting, combined for PTC's cellular operations would be over \$64,000.

8. Finally, and most significantly, it is unclear what benefits the public will reap from imposing equal access on cellular licensees. Under the current regulatory environment, PTC's cellular subsidiaries are able to provide turn-key services to their subscribers, a single bill for services, and benefits in the form of lower interexchange (IX) rates or expanded local calling areas.

9. Like most cellular providers, PTC's cellular interests purchase IX service at bulk rates from facilities-based carriers or IX resellers. These lower rates are passed along directly to the subscriber, or indirectly through the establishment of larger local cellular calling areas i.e., a calling area which crosses a

LATA boundary but is treated as an intraLATA call. Further, in the current environment, subscribers can choose an alternative IX provider by dialing "10XXX" at many conforming end offices. By contrast, it is not clear whether subscribers will benefit from a mandated equal access environment. MCI has not shown that increased investment in facilities will result in lower prices and better service for consumers. In the absence of demonstrable public benefits, the Commission should reject the proposed additional regulation on the cellular industry.

III. CONCLUSION

10. MCI has not demonstrated that imposition of equal access regulation on cellular licensees is in the public interest. Furthermore, imposing such regulation is at odds with the FCC's goal of a competitive mobile services marketplace. For these reasons the Commission should not commence a rulemaking to apply equal access regulation to cellular mobile services.

Respectfully submitted,

PIONEER TELEPHONE COOPERATIVE, INC.

By: Marci E. Greenstein
David L. Nace
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Its Attorneys

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September 2, 1992

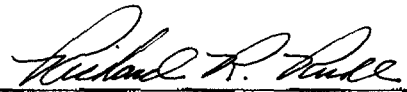
Declaration

I, Richard R. Ruhl, under penalty of perjury, state that I am Assistant Manager of Pioneer Telephone Cooperative, Inc., ("PTC") and Assistant Manager of its wholly-owned cellular subsidiaries, Pioneer Telecommunications, Inc., ("Pi-Com") and O.T. & T. Communications Inc. ("OT&T") Pi-Com and OT&T provide cellular service to approximately 10,000 cellular customers in 3 Rural Service Areas (RSAs) and 1 Metropolitan Service Area (MSA) in the state of Oklahoma.

I am aware of the Federal Communications Commission's ("FCC") request for comments on a petition by MCI to the FCC to apply equal access requirements to non-Bell Operating Company cellular providers. In connection with PTC's comments on MCI's petition, I have assembled the attached estimates of time and costs should equal access conversion be mandated for cellular providers. The cost estimates reflect the steps which would have to be undertaken if equal access were applied to PTC's cellular operations. For instance, in order to implement equal access, each cellular entity would need to obtain a direct connection to the access tandem for each IXC that requested to be on the equal access ballot. This would require investment in additional trunk lines for these connections.

Attached hereto are estimates of costs and time-frames for implementing equal access: Attachment A: Conversion schedule

timeline; Attachment B: Costs for balloting services; and
Attachment C: Costs for software on the MTSO.



Richard R. Ruhl

Dated: September 1, 1992

ATTACHMENT A

Pioneer Cellular
Equal Access Conversion Timeline

<u>Days from Conversion</u>	<u>DATE</u>	<u>ACTIVITY</u>
180*		Mail Conversion Notification
180		Begin Business Office Education. Customer Education.
110		Cutoff date for service orders
107		Business Office Superballoting
85*		Mail Initial Ballots Explanatory letter/w self-addressed postage paid return envelope CHA Begin Accepting IC Letters of Agency (LOAs) 30 days to respond
40*		Mail Second Ballots/ with explanatory letter assigned IC identified self-addressed envelope postage paid return envelope 20 days to respond
20*		Due date for Second Ballots all ballots and LOAs must be processed by this date. Superballoting ends
19		New Business Office procedures begin
14		Updating of Customer Master File and MTSO programming
0		EQUAL ACCESS CONVERSION
+180		End of Free PIC Change period initial PIC selection for allocated customers only

* FCC Mandatory Date



Telecommunications Management Consulting

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Suite 165
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ATTACHMENT B

August 31, 1992

Mr. Richard Ruhl
Pioneer Cellular
P. O. Box 539
Kingfisher, Oklahoma 73750

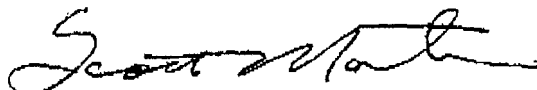
Dear Mr. Ruhl:

This letter is in response to your conversation with Mr. Conley Cathey regarding providing equal access to your cellular customers. Cathey, Hutton & Associates will provide balloting services to Pioneer Cellular for \$16,340.00 plus postage. This quote is based on 10,000 cellular end users and 1 MTSO.

This quote also assumes the requirements for balloting cellular customers follows the FCC guidelines for balloting regulated telephone companies.

If you have any questions or need additional information, please call me at (512) 343-2544.

Sincerely,



Scott Martin
Manager
Access Services

ATTACHMENT C

Customer Name: Pioneer Cellular

Scope of Work: Equal Access Transition - Budgetary Estimate

Location: Kingfisher, OK

<u>Description</u>	<u>Qty</u>	<u>Price</u>
Software:		
End Office Connection Calling Feature	1	
Hardware:		
DS-1 Interface Circuit Pack (TN767B)	3	
Subtotal:		
Engineering:		
Installation:		
		\$47,944

CERTIFICATE OF SERVICE

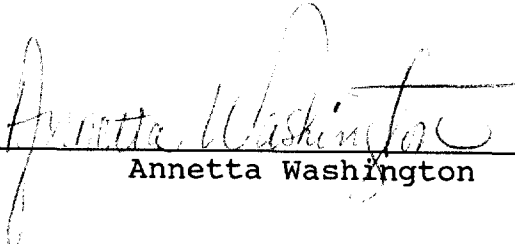
I, Annetta Washington, a secretary in the law offices of Lukas, McGowan, Nace and Gutierrez, Chartered, hereby certify, that I have on this 2nd day of September 1992 sent by First Class Mail, postage prepaid, a copy of the foregoing **COMMENTS** to the following:

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Annetta Washington

*Hand Delivery